



Talbot County Planning Commission
Final Decision Summary

Wednesday, July 9, 2020 at 9:00 a.m.
Wye Oak Room, Talbot Community Center

Attendance:

Commission Members:

Phillip "Chip" Councill, Chairman
Lisa Ghezzi
Paul Spies
Michael Strannahan

Staff:

Mary Kay Verdery, Planning Officer
Miguel Salinas, Assistant Planning Officer
Elisa Deflaux, Environmental Planner
Brent Gardner, Permits and Inspec. Manager
Mike Duell, Chief Code Compliance office

Attended by Teleconference:

William Boicourt, Vice Chairman

1. Call to Order—Commissioner Councill called the meeting to order at 9:00 a.m. and reminded members that the meeting is a continuation of the July 1, 2020 Planning Commission Meeting that was postponed due to technical issues.

2. Decision Summary Review— Postponed; not available

3. Old Business—None

4. New Business

a. Applicant: Susan R. Payne et al c/o Vince Payne
File No.: L1293
Agent: Sean Callahan, Lane Engineering
Request: Final Major Revision Plat
Location: E. Poplar Street, Bellevue, MD 21662
Zoning: Map 42, Grid 12, Parcel 148; Zone: VC

Elisa Deflaux presented the staff report. The applicants are requesting final major revision plat approval for the purpose of reconfiguring 32 existing lots of record into 15 larger lots. The request is reviewed under the previous Chapter 190 of the *Talbot County Code*. Bill No 1401, which repealed and replaced Chapter 190, allowed applicants that received preliminary plat approval prior to the effective date of the bill (November 10, 2018) to be subject to and reviewed under the previous chapter by submitting a written election of exemption to the Planning Officer. The applicants are also requesting two waivers to allow existing piers to remain on two newly revised lots, Unnamed Lot 1 and Section D, Lot 1, where no residential principle or primary use has been established. The waivers are consistent with §190-33.1.B.3. According

to the *Talbot County Code* §190-71.4B., decisions on waivers associated with major revision plats shall be made by the Planning Commission.

Should the Commission approve the Final Revision Plat, staff recommends approval be subject to the following condition:

- 1) Address the June 10, 2020 TAC comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District, and Critical Area Commission prior to the Final Plat submittal.

Staff also provided additional comments: a) ensure that the plat is consistent with the previous Code, b) revise the lot numbers for a consecutive identifier, and c) remove from the plat the path in the 100-foot Buffer over Section D, Lot 1 and Unnamed Lot 1 that is no longer present.

Sean Callahan, Lane Engineering spoke on behalf of the applicant. Vincent and Susan Payne also spoke during this meeting by teleconference. The applicants confirmed they wish to continue under the old Code. In response to the numbering system on the plats, they stated the plats are formatted based off a historical plat system. Mr. Callahan feels the system works and noted that the plats were submitted at the Preliminary and Sketch plan phases in that format. In addition, the legal agreements, which their office put about (30) thirty hours of work into, are drafted using that format. Changing the numbering system would require a lot of work and a greater expense for his client. He noted the path is sentimental to the family and they would like it to remain on the plat. He stated that he submitted a request for a Certificate of Non-Conformity in May 2018. He never received a response to, nor did he follow-up with, the County on that request. Mary Kay Verdery responded that she was unaware of this unanswered request from 2018 until today. She suggested the applicants resubmit this request so that staff could research and respond.

Sean Callahan read some points that the Payne family submitted regarding the path. Elisa Deflaux commented that the path is not currently as it is depicted on the plat. The path appears abandoned and is overgrown with vegetation. She clarified the County is not seeking physical removal of the path, just removal from the plat. Commissioner Boicourt stated he did not see the purpose of keeping the path on the plat, as the family can still use it while they own the property. Commissioner Strannahan agreed with Commissioner Boicourt.

Commissioners discussed the waiver for the piers. After confirming which future lots the piers would belong to, Commissioner Ghezzi stated that the pathway is not critical to access. She also stated she did not feel that the piers are safe, especially pier number two. She suggested a preventive measure to keep trespassers off the piers.

The applicants were also asked to remove a pump house on Lot D1. Mr. Payne responded the family would rather leave that expense to a future buyer. Commissioner Boicourt agreed with staff that the pump house needs to be removed.

97 The applicants also asked that the construction of the wetlands not be required before the
98 Compliance Review Meeting (CRM). Elisa responded that staff could work with the
99 applicants and only require the permit prior to CRM.

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101 Mary Kay Verdery noted that the Planning Commission does have the ability to grant a
102 waiver for the piers. The Planning Commission does not have the ability to make a
103 decision on the pump house; they can make a recommendation. The applicant can file for
104 a special exception with the Board of Appeals to change the use to storage.

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106 **Commissioner Strannahan moved to approve the Waiver-Pier request for Susan R.**
107 **Payne et al c/o Vince Payne, E. Poplar Street, Bellevue, MD 21662. Commissioner**
108 **Ghezzi seconded the motion. The motion carried unanimously.**

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110 **Commissioner Spies moved to remove the pathway on the plat with no requirements**
111 **to physically remove the pathway for Susan R. Payne et al c/o Vince Payne, E.**
112 **Poplar Street, Bellevue, MD 21662. Commissioner Boicourt seconded the motion.**
113 **The motion carried unanimously.**

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115 **Commissioner Ghezzi moved to postpone filling the wetlands until after the plat is**
116 **recorded with a bond for Susan R. Payne et al c/o Vince Payne, E. Poplar Street,**
117 **Bellevue, MD 21662. Commissioner Strannahan seconded the motion. The motion**
118 **carried unanimously.**

119
120 **Commissioner Ghezzi moved to recommend plat approval as it stands with**
121 **compliance of Staff comment number (1) one, staff recommendation number (1) one**
122 **and the prior recommendations from the Planning Commission for Susan R. Payne**
123 **et al c/o Vince Payne, E. Poplar Street, Bellevue, MD 21662. Commissioner Spies**
124 **seconded the motion. The motion carried unanimously.**

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126 **b. Applicant:** Department of Planning and Zoning
127 **Agent:** Martin Sokolich, Planner III
128 **Request:** Recommendation to the County Council
129 **Project:** Maryland Agricultural Land Preservation Foundation (MALPF)
130 easement applications for fiscal year 2021
131

132 Commissioner Councell excused his self from this portion of the meeting due to a conflict
133 of interest. Martin Sokolich explained that MALPF stands for the Maryland Office of
134 Planning's Maryland Agricultural Land Preservation Program. MALPF is a state run and
135 funded program to preserve farm- land; funds come from state funds and transfer taxes.
136 The Commission was provided a list of (12) twelve ranked applications out of the (32)
137 thirty-two that were received in Talbot County. The chosen applications will be submitted
138 to the State for the MALPF program. The MALPF program is looking for statistical
139 information on each farm application such as: number of acres, how much prime
140 agricultural soil, how much land do they want to preserve, do they want to reserve lots for
141 their children, and is the property in the critical area. Each county has their own process
142 for ranking the applications. Talbot County has included bonus points for "best
143 management practices".

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145 **Commissioner Boicourt moved to recommend to County Council an approval of the**
146 **Maryland Agricultural Land Preservation Foundation (MALPF) easement**
147 **applications for Fiscal Year 2021 as presented by Martin Sokolich, Planner III.**
148 **Commissioner Spies seconded the motion. The motion carried (4-1, Council**
149 **abstained)**

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151 **c. Applicant:** Talbot County Council
152 **Agent:** Mary Kay Verdery, Planning Officer, Department of Planning and
153 Zoning
154 **Request:** Recommendation to the County Council
155 **Project:** Bill 1446 – A Bill to amend Chapter 190 of the Talbot County
156 Code (Zoning, Subdivision and Land Development) to improve
157 and clarify the processes for licensure and oversight of Short-Term
158 Rentals in the County; and to amend the standards for safety for
159 licensure
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161 Mary Kay Verdery, Planning Officer, summarized a memo that was provided to the
162 Planning Commission from Miguel Salinas. Bill No. 1446 was introduced on June
163 9, 2020 by the County Council. Previously, Bill No. 1443 was introduced on March 10,
164 2020 by the Council that largely incorporated the results from joint work sessions held
165 with the Council and the Short-Term Rental Review Board (STRRB). However, due to
166 the County’s Emergency Declaration during the COVID-19 pandemic (which closed
167 County buildings to the public), the Council allowed the bill to expire; the County
168 Charter provides that a legislative bill expires if not passed within sixty-five
169 calendar days after its introduction. Below are highlights of some of the changes the bill
170 proposes.
171

172 **BILL No. 1446 SUMMARY:** Bill No. 1446 proposes to amend the Short-Term Rental
173 (STR) regulations contained in Chapter 190-33.20 and 190-63 of the *Talbot County*
174 *Code*. The Bill:

- 175 ■ Provides Code Enforcement Division discrepancy on when and for how long to apply
176 a penalty that prohibits a property owner from applying for a license when found
177 advertising or operating an STR without such license
- 178 ■ Clarifies that the maximum number of persons to be permitted on-site during periods
179 of STR use are based on the number of bedrooms in the dwelling that is rented (either
180 the primary or accessory home)
- 181 ■ Establishes County-specific minimum building safety standards that STR homes must
182 meet related to fire extinguishers, smoke alarms, carbon monoxide monitors, rescue
183 openings, primary and secondary emergency escape/egress, and back-up illumination
184 for stairways with low ceiling heights
- 185 ■ Allows third-party building safety inspections conducted by an International Code
186 Council certified inspector to be completed prior to the filing of an application
- 187 ■ Defines in detail the Talbot County Health Department’s role in STR license
188 application review related to water sample testing and the property’s water supply
189 well and on-site sewage disposal system

- Defines a resident agent and clarifies their role and responsibility when responding to complaints
- Requires an STR-license property owner to notify the County when there is a change in resident agent status
- Eliminates the requirement that new applications are only accepted during the months of January, February, July and August

In addition, Bill No. 1446 proposes several changes to the neighboring property owner notification requirements for STR new and renewal license applications. The Bill:

- Eliminates one of two current notification requirements; the requirement that an STR license applicant provide neighboring property owner notification within twenty-one (21) days from the date of application
- Changes the type of mailing from certified mail to priority mail with delivery confirmation
- Specifies that neighboring property owner notification mailings must be sent out at least twenty-one (21) days before a scheduled public hearing for a new license application
- Requires an STR license applicant whose property has right of access on a private road to provide neighboring property owner notification to all owners of property who have right of access on such road (as opposed to the current requirement of 1,000 feet)
- Requires the STR license applicant whose property is within a certain zoning district to provide property owner notification to neighboring properties located within five-hundred (500) feet (as opposed to the current requirement of 1,000 feet)

Miguel confirmed for Commissioner Ghezzi that the changes all are in response to the joint work sessions between the Council and members of the STRRB. Commissioners Boicurt, Ghezzi, Counell and Strannahan all stressed their belief that the owner should be at the initial Short-Term Rental Review Board Meeting. Commissioner Spies believed that having a local professional agent appear is adequate and these agents are going to build their reputation based on the quality of their work.

Mary Kay Verdery summarized staff recommended amendments, developed in consultation with the Building Official and reviewed by the County Attorney, to the minimum safety standards included in Bill No. 1446. The amendments provide consistency in implementation of the safety standards for County and third-party inspectors. Commissioners stated that staff's amendments clarified the proposed standards but did not significantly change them.

Bill No. 1446 was introduced on June 9, 2020 by the Council. Mary Kay Verdery summarized some points in regards to STRs. There was discussion regarding case law in Maryland that states STRs are residential uses. Even the owner's use of a "LLC" does not make it the STR a commercial property. STRs should not be referred to as commercial.

Several letters were submitted and five members of the community called in to express their approval or concerns about STRs to the Planning Commission. Some of the concerns

mentioned were the number of rentals in the Bentley Hay area, the owner appearing at the initial STRRB meeting and the change to notify neighboring properties located within five hundred (500) feet (as opposed to the current requirement of 1,000 feet) within the residential zoning districts. Scott Kane, Chairman of STRRB, was also on the phone to answer any questions that the Commissioners had. The Commissioners diligently listened and to each caller and discussed the concerns regarding this bill in length.

Commissioner Boicourt moved to recommend to the County Council approval of Bill 1446 with the following amendments: 1.) the owner must be present at the initial hearing, 2) the requirement of 1,000 feet is reestablished, and 3) the safety recommendations by staff are included. Commissioner Strannahan seconded the motion. The motion carried (4-1, Spies opposed).

d. Applicant: Department of Planning and Zoning
Agent: Miguel Salinas, Assistant Planning Officer
Request: Recommendation to the County Council
Project: Draft Cordova Village Master Plan
POSTPONED

e. Applicant: Department of Planning and Zoning
Agent: Miguel Salinas, Assistant Planning Officer
Request: Recommendation to the County Council
Project: Draft Working Waterfront Overlay District
POSTPONED

5. Discussions Items

a. Applicant: Tilghman on the Chesapeake
File No.: L1341
Agent: Brett Ewing, Lane Engineering, LLC
Request: Sketch Major Revision Plat
Location: Spinnaker Way, Tilghman MD 21671
Zoning: Map 44, Parcel 49; Zone: VM

Brett Ewing noted that the project was formally in front of the Planning Commission in May 2020 and was not approved. After that meeting, the applicant took the Commissioners concerns into consideration and revised the plan. The Commissioners received a memo from Brett Ewing with an outline of the revised plan. Some of the main points on the memo are the number of lots, zoning ordinance, and size of the lots. The number of lots increased from (6) six to (10) ten lots. The property is zoned Village Mixed (VM). The allowed density is one unit per acre. The property is a little over (11) eleven acres with (1 ½) one and one-half acres of roadway. Ten acres would be used for the subdivision with a ten-lot layout which is consistent with the current zoning ordinance. The current minimum lot size in the VM district on lots with public sewer is (30,000) thirty thousand square feet. The current subdivision of (26) twenty- six lots is not compliant. The proposed revision would make it compliant with the lot size and lot width that are required today. He confirmed that

Spinnaker Way is a public road dedicated to the county. Once upgraded, the developer plans on working with the County Staff to get the roadway accepted and maintained by the County. He is confident that the new plan is consistent with the Talbot County Comprehensive Plan.

Commissioner Ghezzi thanked the applicant for taking the Planning Commission's prior comments into consideration when redesigning the plan. Commissioner Councill agreed with Commissioner Ghezzi. He also stated that he believes the new plan is consistent with the Talbot County Comprehensive Plan. Commissioner Councill asked for public comment. There was none.

b. Applicant: Two Nineteen Federal, LLC
File No.: SP584
Agent: Zachary A. Smith, Armistead, Lee, Rust & Wright, P.A.
Request: Major Site Plan - Discussion of landscaping plan
Location: 25815 Avonia Lane, Royal Oak, MD 21662
Zoning: Map 46, Grid 12, Parcels 122 and 134; Zone: VH

Zachary Smith attended via teleconference on behalf of Two Nineteen Federal LLC and Mark Hill. Mr. Hill is the Principal of Bailey Marine; a locally-owned family business currently located in Easton Maryland. The business purchased 25815 Avonia Lane, Royal Oak, MD 21662 in 2017 with the intent that it would be the new headquarters for the company. The property was formally the location of a seafood packing company. The applicant has been working with Lane Engineering and the County Staff in order to obtain permits to redevelop the property.

Mr. Smith explained to the Planning Commission an issue regarding landscaping requirements on the property. The current zoning ordinance requires new landscaping to be installed with all new development. Lane Engineering developed a plan that would meet the requirement. However, when Mark Hill consulted with two professional landscapers, he was informed that the plants would not survive due to the existing soil conditions; the soil is composed of a thick layer of oyster shells. Mark Hill went back to the staff to seek relief due to this information and he was advised to develop an alternate landscaping plan with trees and bushes in certain areas. A professional landscaper did develop a new plan with plants and trees in certain areas but is still uncertain if the plants will survive. Planting is very expensive and Mr. Hill would rather not plant when he is being told the plants might not survive. However, he understands it is a requirement and is willing to plant. Per County policy he is required to sign an agreement stating he will replant if and when the plants die and post a bond to ensure his performance. Mr. Hill's concern is that this could be an endless cycle of planting. Mr. Smith stated he wanted to appear before the Planning Commission to ask for any advice on how to resolve the issue. Mr. Hill believes the property would be a great candidate for the Working Waterfront Overlay District that the County is currently working on. Unfortunately, they do not have time to wait to see if that is going to be implemented.

Mr. Smith noted if his client does not get approval by July 12, 2020, the client will have to start the approval process over from the beginning. They are asking if the Planning Commission can waive these requirements or whether the Commission can help in any way. If not, they ask that the Commission keep this property in mind as work is completed on the Working Waterfront Overlay District.

Commissioner Councill asked Mary Kay Verdery, Planning Officer, what the Planning commission could realistically do in this situation. Ms. Verdery stated that staff has been working with the applicant. She would like them to sign the agreement in order to get their site plan approved and move forward. Staff is willing to continue working with the applicant and suggest the applicant plant in a test planting area to see what plants survive. The planting plan includes different species and staff doesn't anticipate that they all won't survive. The small planting area will help staff make an informative decision on the overall landscaping plan. She also stated staff is not going to ask the applicant to replant a certain species that we know failed.

Elisa Deflaux, Planner II, explained that bare earth needs to be avoided on a waterfront property. Staff is also concerned about screening from an adjacent properties because both are residential. Staff concentrated canopy trees in those areas to provide screening to those residences. She noted staff made concessions with the landscaping plan and believes it to be a workable plan in order to get the site vegetated and screened. Ms. Deflaux also confirmed that the plan is to alter the soil in order to change the amount of calcium in the soil from the oyster shells.

Commissioner Councill asked Miguel Salinas, Assistant Planning Officer, to explain what the requirement would be under the Working Waterfront Overlay District. Miguel explained some of the differences under the current draft of the Working Waterfront Overlay; applicants would be exempt from the overall 25 % landscaping requirement on the property as well as any interior parking landscaping. They will still be required to do the perimeter landscaping adjacent to existing lots. Critical Area requirements would also remain in effect related to mitigation.

Commissioner Councill stated he understood what the County is trying to do but thinks the plants may fail under stress. He agreed that the small planting area is a good idea. Commissioner Spies agreed with Commissioner Councill. Commissioner Strannahan stated that the County needs to make this work for the neighboring properties as well. Commissioner Councill stated he has faith that the County staff will work with the applicant regarding this issue.

- 6. Staff Matters—** Commissioner Ghezzi asked staff if Decision Summaries can be completed and sent shortly after each Commission meeting. Mary Kay Verdery responded that staff will certainly try to accommodate the request but noted that several weekly deadlines for meetings that occur each month, including Technical Advisory Committee, Pre-Application, Compliance Review, and Short-Term Rental Review Board, could oftentimes make it difficult to meet that timeline.

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7. Work Sessions—None

8. Commission Matters—None

9. Adjournment

Commissioner Spies moved to adjourn the meeting. Commissioner Strannahan seconded the motion. The motion carried unanimously. Meeting adjourned at 12:23 pm.